Special Appeal (Civil) No.62/05
Smt.Kamla Yadav & Ors. Versus
M/s JK Joban & Jewellers & Others.
(in SB Civil Misc. App.No.410/95)
Date of Order ::: 12//09//05

Hon'ble Mr. Justice V.K.Bali
Hon'ble Mr. Justice Ajay Rastogi

Mr. Sandeep Mathur, for appellants (claimants),

(Ajay Rastogi, J.)

In instant special appeal, enhancement is further sought by claimants as against the compensation awarded by learned Single Judge vide order dt.18/05/05 passed in CMA No.410/95, whereby compensation of Rs.1,25,000/- under Award dt.06/11/89 passed by Motor Accident Claims Tribunal, Jaipur (***"Tribunal"***) in MACT Case No.524/90, was enhanced to Rs.2,97,000/-.

Claim petition was filed by appellants for compensation on account of death of Sitaram Yadav, who died in a motor accident, which took place in midnight of 6/7th November, 1989. Appellant No.1 is widow and other appellants are children of the deceased, who was 30 years of age and was engaged in jewelery business. After taking note of age & monthly income of deceased, the Tribunal awarded compensation to the tune of Rs.1,25,000/-, against which claimants preferred appeal for its enhancement, and the learned Single Judge vide order dt.18/05/05, after taking note of age and income of the deceased, considered loss of economical dependency at Rs.16,000/- oer annum and it applied multiplier of 17 and accordingly enhanced the compensation to Rs.2,97,000/-, further enhancement whereof is sought in this special appeal.

Only contention advanced by Shri Sandeep

Mathur, Counsel for claimants is that his income has not been properly determined by the Tribunal and learned Single Judge, and the impugned order is not supported by material on record.

Having considered the aforesaid submission, we find that the learned Single Judge has considered the evidence on record and took note of statement of Uttam Kumar (AW5)who stated that the deceased was working with him and was earning Rs.2,000/- per month but in cross examination he admitted that no document has been produced with regard to partnership business, rather admitted that they were not paying income tax. Therefore, in the absence of material on record, we find that what has been assessed by learned Single Judge after taking into consideration aforesaid evidence, does not require any interference in all respects including method of multiplier & future prospects. Consequently, this special appeal is dismissed. No order as to costs.

(Ajay Rastogi), J. (V.K.Bali), J.

K.Khatri/62SAC2005.